

## CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Esme Trontz	Team: Squad #7	CCRB Case #: 202102843	<input type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Friday, 05/07/2021 7:47 PM, Friday, 05/07/2021 8:04 PM	Location of Incident: 140th Avenue and 172nd Street; 113th Precinct stationhouse	Precinct: 113	18 Mo. SOL 11/7/2022	EO SOL 11/7/2022	
Date/Time CV Reported Mon, 05/10/2021 12:49 PM	CV Reported At: CCRB	How CV Reported: Call Processing System	Date/Time Received at CCRB Mon, 05/10/2021 12:49 PM		

Complainant/Victim	Type	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. POM Steven Allen	00307	948606	113 PCT
2. LT Darnell Simon	00000	942549	113 PCT
3. PO Joseph Angelone	02293	963376	113 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Patrick Henn	01679	964049	113 PCT

Officer(s)	Allegation	Investigator Recommendation
A. PO Joseph Angelone	Abuse: At 140th Avenue and 172nd Street in Queens, Police Officer Joseph Angelone stopped the vehicle in which § 87(2)(b) and § 87(2)(b) were occupants.	
B. LT Darnell Simon	Abuse: At 140th Avenue and 172nd Street in Queens, Lieutenant Darnell Simon stopped the vehicle in which § 87(2)(b) and § 87(2)(b) were occupants.	
C. POM Steven Allen	Abuse: At the 113th Precinct stationhouse, Police Officer Steven Allen did not process § 87(2)(b)'s complaint regarding officers.	

## Case Summary

On May 10, 2021, § 87(2)(b) filed this complaint with the CCRB through the Call Processing System on behalf of herself, her grandson, § 87(2)(b) and her § 87(2)(b).

On the evening of May 7, 2021, in the Laurelton neighborhood of Queens, § 87(2)(b) was in the back seat of her white Lexus sedan while her granddaughter, § 87(2)(b) was in the front passenger seat, and her grandson, § 87(2)(b) was in the driver seat. Lieutenant Darnell Simon and Police Officers Joseph Angelone and Patrick Henn, all from the 113<sup>th</sup> Precinct, were assigned as Public Safety officers that day and were patrolling the area when Lieutenant Simon and Police Officer Angelone noticed a frame around § 87(2)(b)'s rear license plate. Lieutenant Simon and Police Officer Angelone turned on their lights to instruct § 87(2)(b) to pull over, and he did so at the corner of 172<sup>nd</sup> Street and 140<sup>th</sup> Avenue (**Allegations A and B: Abuse of Authority- Vehicle Stop**, § 87(2)(g)). All the officers approached the vehicle and Police Officer Angelone checked § 87(2)(b)'s license, then let the occupants go without issuing a summons or effecting an arrest. § 87(2)(b) and § 87(2)(b) drove to the 113<sup>th</sup> Precinct stationhouse to file a complaint about the incident. There, § 87(2)(b) spoke with Police Officer Steven Allen of the 113<sup>th</sup> Precinct, who refused to take her complaint (**Allegation C: Abuse of Authority- Refusal to Process Civilian Complaint**, § 87(2)(g)).

BWC videos were received from Lieutenant Simon (Board Review #01) and Police Officers Angelone (Board Review #02) and Henn (Board Review #03). Stationhouse footage from the 113<sup>th</sup> Precinct stationhouse was also received (Board Review #04).

## Findings and Recommendations

**Allegation (A) Abuse of Authority: At 140th Avenue and 172nd Street in Queens, Police Officer Joseph Angelone stopped the vehicle in which § 87(2)(b) § 87(2)(b), and § 87(2)(b) were occupants.**

**Allegation (B) Abuse of Authority: At 140th Avenue and 172nd Street in Queens, Lieutenant Darnell Simon stopped the vehicle in which § 87(2)(b) § 87(2)(b) and § 87(2)(b) were occupants.**

§ 87(2)(b) was interviewed by the CCRB via telephone on May 20, 2021 (Board Review #05). § 87(2)(b) was interviewed by the CCRB via telephone on May 26, 2021 (Board Review #06). § 87(2)(b) was interviewed by the CCRB via telephone on June 9, 2021 (Board Review #07). Police Officer Steven Allen was interviewed by the CCRB on July 8, 2021. Lieutenant Darnell Simon was interviewed by the CCRB on August 10, 2021. Police Officer Joseph Angelone was interviewed by the CCRB on August 31, 2021.

It is undisputed that § 87(2)(b) was driving § 87(2)(b)'s car at around 7:30 p.m. on May 7, 2021, with § 87(2)(b) in the back seat and § 87(2)(b) in the front passenger seat. Police Officer Angelone and Lieutenant Simon pulled the car over when they both noticed a plate frame bordering the rear license plate. § 87(2)(b) had not committed any other vehicle infractions and the car was in good working condition. Police Officer Angelone checked § 87(2)(b)'s license and found no problems, after which the officers let the occupants go without issuing a summons or effecting an arrest.

§ 87(2)(b)'s vehicle's rear license plate, as seen in the photo provided by § 87(2)(b) (Board Review #08), was a standard yellow and blue New York license plate. The top of the plate

displayed “New York,” the middle, § 87(2)(b) and the bottom, “Empire State.” A frame bordered the plate which obscured only the very top of “New York” and the very bottom of “Empire State,” but not enough to render the words unreadable. § 87(2)(b) was completely unobscured. Police Officer Allen stated during his interview and during § 87(2)(b)’s visit to the stationhouse that there was no issue with the rear plate, further telling her he “didn’t see a plate cover” at all. Upon viewing this photograph during his interview, Lieutenant Simon stated that no part of the plate was unable to be read clearly.

Lieutenant Simon also testified that he and Police Officer Angelone together determined that the car needed to be stopped to ensure the plate was not fraudulent. Lieutenant Simon believed in his interview that the plate was white and blue, which he thought closely resembled a temporary plate. At the time, there was an increase in the number of fraudulent temporary tags, which, according to Lieutenant Simon, were usually made of white paper or cardstock. He was unable to tell during the incident whether § 87(2)(b)’s plate was paper or metal and initially stated that he did not check the plate number before stopping the car.

Police Officer Angelone, in contrast, testified that he had no suspicion that § 87(2)(b)’s plate was fraudulent, and that neither the text nor the numbers on the plate were covered by the frame. It was his understanding that any kind of plate frame or covering was illegal, but he had never received specific instructions on how to address illegal plate coverings or frames.

The license audit, received from IAB off-site, shows that Lieutenant Simon ran a mobile search on his phone for a Vehicle with the information § 87(2)(b) Plate State: New York,” at 7:46:23 p.m. on May 7, 2021 (Board Review #09). The audit shows Lieutenant Simon conducted a “Reports Opened” mobile search 18 seconds later with the same plate number. Lieutenant Simon is seen at 36 seconds into his BWC footage (7:47:19 p.m.), about a minute after first running the license audit, holding up a white screen with black text on his phone and appearing to angle the screen toward Police Officer Angelone in the driver seat (Board Review #01). The text is too small to read what it says. At 52 seconds, Lieutenant Simon exits his car, and § 87(2)(b)’s car is seen stopped at the curb.

Lieutenant Simon stated that he had forgotten about running the warrant check until he saw the documentation in his interview, and Police Officer Angelone did not remember any further details about this check.

New York State Vehicle and Traffic Law Section 402 (1) (b) states, “number plates shall be kept clean and in a condition so as to be easily readable and shall not be covered by glass or any plastic material, and shall not be knowingly covered or coated with any artificial or synthetic material or substance that conceals or obscures such number plates” (Board Review #10). People v. Frederick 46 Misc. 3d 33 [2014] states, “The stop of defendant’s vehicle for an obstructed license plate infraction based upon the presence of a frame around of the perimeter of defendant’s license plate was without legal justification despite the arresting officer’s belief that the mere existence of such a frame violated Vehicle and Traffic Law § 402 (1) (b). The purpose of Vehicle and Traffic Law § 402 (1) (b) is to ensure the readability of information printed on license plates and a violation occurs where there is an actual obstruction of information related to vehicle identification. While it is well settled that the police may lawfully stop a vehicle based on a reasonable suspicion that there has been a Vehicle and Traffic Law violation, where the officer’s belief is based on an erroneous interpretation of the law, the stop is illegal at the outset and any further actions by the police as a direct result of the stop are illegal. As the officer conceded that the frame did not obstruct defendant’s license plate and that he had based the stop on his belief that the mere existence of such a frame violated the statute, the stop was without legal justification” (Board Review #11).

Lieutenant Simon was able to quickly run a check on the plate before stopping § 87(2)(b)'s vehicle, which strongly suggests that no part of the plate was unreadable. Further, Police Officer Allen testified that he believed there was nothing illegal about the cover. § 87(2)(g)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

**Allegation (C) Abuse of Authority: At the 113th Precinct stationhouse, Police Officer Steven Allen did not process § 87(2)(b)'s complaint regarding officers.**

§ 87(2)(b) testified that, when she told Police Officer Allen she wanted to file a complaint about the incident, he said he could not take the complaint there, but he gave her the phone number to the CCRB. She could not remember precisely what reason he gave that he could not take her complaint, but she believed it was because civilians could not go inside the stationhouse due to the COVID-19 pandemic. § 87(2)(b) also testified that Police Officer Allen did not allow them inside because of COVID-19 and gave them a phone number and website they could use to report the incident. § 87(2)(b) added that Police Officer Allen said they needed to provide more information about the officers who stopped them.

Police Officer Allen testified that he told § 87(2)(b) he could take a complaint by filling out paperwork at that time, but she declined, though he did not remember if she said why she didn't want to. He then told her she could either call 311 or IAB (or email IAB) to file a complaint on her own and showed her a piece of paper with IAB's information. He understood that he was required to notify his supervisor if someone wanted to file a complaint at the stationhouse, and though § 87(2)(b) ultimately declined to file one at the stationhouse, he was pretty sure he notified his supervisor that § 87(2)(b) came by. He never told § 87(2)(b) she could not file a complaint at the stationhouse. At that time, the COVID procedure prohibited civilians from entering the stationhouse past the small vestibule at the front, which § 87(2)(b) did not try to pass through. § 87(2)(b) and § 87(2)(b) left the stationhouse after a short discussion and came back one or two hours later with the license plate number of the unmarked vehicle that had stopped them earlier, and Police Officer Allen again told them they could file the complaint with IAB. He stated he was unable to determine the identities of officers in an unmarked vehicle, and that IAB would be able to do so instead.

Stationhouse footage from the 113<sup>th</sup> Precinct stationhouse captures the conversation between § 87(2)(b) and Police Officer Allen without audio (Board Review #04). § 87(2)(b) did not allege that she visited the stationhouse again one to two hours later and thus footage was not received from this second conversation. At 34:00 in the stationhouse footage, § 87(2)(b) is seen ascending the steps and approaching Police Officer Allen. At 37:46, § 87(2)(b)'s vehicle appears in front of the stationhouse and comes to a stop (presumably with § 87(2)(b) in the driver seat). § 87(2)(b) shows Police Officer Allen the rear plate, and the two of them and § 87(2)(b) speak for a few minutes. Police Officer Allen goes back into the stationhouse, and at 46:40, comes back out holding a piece of paper, which he gives to § 87(2)(b) and § 87(2)(b). The three of them speak for a few more minutes, after which § 87(2)(b) and § 87(2)(b) drive away. Police Officer Allen stated in his interview that the paper he is seen giving to § 87(2)(b) and § 87(2)(b) contained the contact information for IAB.

Patrol Guide Procedure 207-31 states that if a civilian wants to file a complaint against officers

while at the stationhouse, an officer must interview the complainant and provide them with a Civilian Complaint Report Form (PD 313-154) to be prepared in the civilian's own handwriting (Board Review #12). Even if the civilian does not wish to file the complaint immediately in-person at the stationhouse, the officer is still required to provide them with the Civilian Complaint Report Form.

Though Police Officer Allen said § 87(2)(b) refused to make her complaint at the stationhouse for some reason, § 87(2)(b) and § 87(2)(b) testified that she wanted to make one. Further, the fact that she allegedly returned to the stationhouse an hour or two later suggests that she did indeed wish to file a complaint there. Even with the COVID procedure prohibiting her entry into the stationhouse, Police Officer Allen was still required to provide her the Civilian Complaint Report Form in some fashion. Instead, he provided the IAB information. § 87(2)(g)

### Civilian and Officer CCRB Histories

- This is the first complaint to which § 87(2)(b) (Board Review #13), § 87(2)(b) (Board Review #14), and § 87(2)(b) (Board Review #15) have been parties.
- Police Officer Allen has been a member-of-service for 11 years and has been named a subject in four CCRB cases and eight allegations, none of which were substantiated. § 87(2)(g)
- Lieutenant Simon has been a member-of-service for 15 years and has been named a subject in four CCRB cases and five allegations, none of which were substantiated. § 87(2)(g)
- Police Officer Angelone has been a member-of-service for four years and has been named a subject in two CCRB cases and three allegations, none of which were substantiated. § 87(2)(g)

### Mediation, Civil, and Criminal Histories

- This case was not eligible for mediation due to the agency-wide moratorium on mediation.
- According to the NYC Office of the Comptroller, as of November 5, 2021, no Notice of Claim had been filed regarding this complaint (Board Review #16).

Squad: 7

Investigator:	Esme Trontz	Inv. Esme Trontz	02/17/22
	Signature	Print Title & Name	Date
Squad Leader:	Manager Vanessa Rosen	2/28/22	
	Signature	Print Title & Name	Date

Reviewer: \_\_\_\_\_  
Signature Print Title & Name Date